



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

518-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

ACCESS MEDIQUIP LLC
PO BOX 421529
HOUSTON TX 77242

DWC Claim #:
Injured Employee:
Date of Injury:
Employer Name:
Insurance Carrier #:

Respondent Name

TRAVELERS INDEMNITY CO

Carrier's Austin Representative Box

Box Number 05

MFDR Tracking Number

M4-10-4825-01

MFDR Date Received

JULY 22, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary as stated on the Letter of Continued Dispute dated June 13, 2012:

"Travelers Insurance has denied payment on the above-referenced account for surgical implants in a manner inconsistent with the Texas Code, Various Administrative hearings and fair business practices. Access Mediquip (hereafter: 'AMQ'), a provider of surgical implants, has presented Travelers Insurance will billing notifications and appeals regarding Mr. Alonzo. Travelers Insurance has consistently denied payment and this letter is to dispute all prior negative determinations and to notify Travelers Insurance of our intent to pursue resolution to the extent permitted by law.

The facts of this claim are as follows: • On **January 8, 2010** Travelers issued a denial for AMQ's charges advising that the Ambulatory Surgical Center (ASC) was reimbursed for the cost of the implants; carve out of implant charges are not separately reimbursable. • On **January 11, 2010** AMQ submitted an appeal to Travelers noting that the ASC did not bill for the implantables. This submission included the manufacturer's invoices (**attached**) for the implantable items as well as the authorization information obtained (**attached**). • On **February 4, 2010** Travelers denied the appeal, again, advising that the Ambulatory Surgical Center (ASC) was reimbursed for the cost of the implants; carve out of implant charges are not separately reimbursable. • On **April 12, 2010** AMQ submitted another appeal, to include the medical records, authorization information, and item description. • On **April 29, 2010** Travelers issued another denial, again, advising that the Ambulatory Surgical Center (ASC) was reimbursed for the costs of the implants; carve out of implant charges are not separately reimbursable. • On **June 22, 2010** AMQ submitted an appeal, this time including a note from Grace Medical Center (the ASC) advising that they did NOT bill the implantable items (**statement attached**), they only billed \$275.00 under REV Code 278 for the programming of the Neurostimulator device. • On **July 6, 2010** Travelers denied AMQ's claim, again, advising that the Ambulatory Surgical Center (ASC) was reimbursed for the cost of the implants; carve out of implant charges are not separately reimbursable. • On **July 22, 2010** AMQ filed a complaint with the Texas Department of Insurance (Herein after referred to as 'TDI'), detaining the ongoing denial issue. • On **August 5, 2010** Travelers denied the bill, again, advising the the Ambulatory Surgical Center (ASC) was reimbursed for the cost of the implants; carve out of implant charges are not separately reimbursable. • On **August 11, 2010** Travelers responded to the TDI stating that the ASC submitted billing to include charges for the implantable items and were paid for the implantables; this is FALSE INFORMATION given to a state entity. (see ASC EOB and Travelers reply to TDI, attached) • On **August 11, 2010** Travelers also advised TDI that there was no indication given that separate reimbursement of the implants would be sought by AMQ. This is also FALSE INFORMATION given to a state entity. The fact is that on October 14, 2009 AMQ representative Brit Harris contracted Travelers

adjuster, Stephanie Soak, and advised of separate billing arrangement with ASC and AMQ; as a result AMQ was advised by Stephanie the implants and procedure were authorized and Stephanie Soak acknowledge the separate billing procedure. • On **March 29, 2011** Travelers denied the charges, once again. This denial states '*Appeals will not be considered after the first day of the 11th month.*' **THIS DENIAL IS INVALID**, there were numerous appeals submitted prior to this one; continued or ongoing dispute of denial past the 11th month is not excluded per Texas Statute. • Travelers has subsequently issued a number of erroneous denials based on timely filing, including denials issued on April 12, 2001 and March 6, 2012.

We continue to contest the denials on the following grounds: 1) AMQ did advise Travelers Insurance that the **implants would be billed separately and the TX fee schedule allows for separate reimbursement of certain implantable items, to include the billed implants.** 2) All material necessary to process **the billing for the implantable device billed was properly presented to Travelers Insurance within the timeframes consistent with Texas law** and Travelers Insurance's own internal processing guidelines. **A denial for timely filing is negated by the gross mishandling by Travelers of the initial, properly filed billing.**

We have contacted the Texas Department of Insurance and outlined the dispute for their impressions. With regards to separate implant reimbursement, TDI advised us of several things: 1) First, **notification of separate billing may be initiated either by the ASC Provider or the implant provider itself.** 2) Second, if the carrier authorizes the separate billing as recognized under Labor Code Title 5 Subtitle A, Chapter 413, subchapter A (413.014); **the carrier is obliged to pay this bill** in accordance with the reimbursement terms set forth in the Texas Code. 3) Finally, if there was notification and authorization was approved, the carrier must contact the surgical implant provider where any material defect with the bill is found.

Clearing AMQ was entitled to compensation for the devices rendered to Mr. Alonzo who received an implantable device. The various denials and other roadblocks presented by Travelers Insurance have no support in the Texas Code. **It is also clear that Travelers Insurance manipulated Texas Code and provided false/misleading information to the Texas Department of Insurance regarding this claim.**"

Amount in Dispute: \$87,149.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Provider's Request for Medical Fee Dispute Resolution involves reimbursement for implantables by the manufacturer separate from the facility. The Hospital, Grace Medical Center, performed an implantation of a spinal stimulator. The Hospital submitted billing, including billing for the implantables, which was received by the Carrier on 01-07.2010. The Carrier issued reimbursement for the procedure including the implantables, to the Hospital. Separately, the Carrier received billing for the same implantables from the Provider, Access Mediquip. As the Carrier was reimbursed the Hospital for the implantables with no indication that separate reimbursement would be sought, the Carrier denied reimbursement to the Provider. The Provider subsequently filed this Request for Medical Fee Dispute Resolution. The Carrier is not liable to the Provider for reimbursement of the implantables, as the Carrier has already reimbursed the Hospital Facility for the same implantables. Per the Explanation of Benefits, attached, the Hospital billed and was reimbursed for the implantables. Therefore, the Carrier is not liable for additional reimbursement to this Provider for the same implantables. The Provider argues in their documentation that they have a contractual agreement with the Hospital Facility regarding billing. As the Hospital Facility was previously reimbursed for these implantables, the Provider's recourse is more properly against the Hospital Facility and not the Carrier...."

Response Submitted by: Texas Mutual Insurance Company, 6210 E. Hwy 290, Austin, TX 78723

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 11, 2009	HCPCS Code L8687	\$61,932.00	\$0.00
November 11, 2009	HCPCS Code L8689	\$8,883.00	\$0.00

November 11, 2009	HCPCS Code L8680	\$6,400.00	\$0.00
November 11, 2009	HCPCS Code L8681	\$3,534.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.403 sets out the guidelines for reimbursement of hospital outpatient services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - T214 – 97 – The benefit for this svc is incl in the pymt/allowance for another svc/proc that has already been adjudicated. The hospital fee schedule reimbursement incl pymt for the surg implant. Carve out of implant chgs are not separately reimbursed.

Issues

1. Did the requestor submit the Request for Medical Fee Dispute Resolution in accordance with 28 Texas Administrative Code §133.307(c)(2)(A) and §133.307(c)(2)(B)?
2. Did the respondent reimburse the requestor in accordance with the fee guideline?
3. Is the requestor entitled to reimbursement?

Findings

1. 28 Texas Administrative Code §133.307(c)(2)(B), effective May 25, 2008, 33 *Texas Register* 3954, applicable to requests filed on or after May 25, 2008, requires that the request shall include "a copy of each explanation of benefits (EOB), in a paper explanation of benefits format, relevant to the fee dispute or, if no EOB was received, convincing documentation providing evidence of carrier receipt of the request for an EOB." Review of the submitted documentation finds that the request does not include a copy of the EOB detailing the insurance carrier's response to the request for reconsideration. Nor has the requestor provided evidence of carrier receipt of the request for an EOB. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(B).
2. In accordance with 28 Texas Administrative Code 134.403(f) The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied. (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by: (A) 200 percent; unless (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 130 percent. Review of the bill submitted to the insurance carrier by Grace Medical Center shows the hospital did not request separate reimbursement for the implantables.
3. Review of the submitted documentation finds that the requestor is not entitled to reimbursement for HCPCS Codes L8680, L8681, L8687 and L8689.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services..

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

February 13, 2013
Date

Signature

Medical Fee Dispute Resolution Manager

February 13, 2013
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.